

EURO-03526-USA-PR

Exhibits

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IN UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD

In Re Application Ser. No. 75-740,867

Published: June 6, 2000

Mark: DIFFUSION NO. 1

EUROPEENNE DE PRODUITS DE
BEAUTE

Opposition No. 119,940

Opposer,

v.

KOSOVA, ANNA

Applicant.

OPPOSER'S MOTION TO COMPEL DISCOVERY RESPONSES

Opposer, Europeenne De Produits De Beaute, in accordance with Rule 37 of the Federal Rules and Procedure and Rule 2.120(e) of the Trademark Rules of Practice, hereby moves for an Order compelling Applicant Anna Kosova to: answer Opposer's First Set of Interrogatories to Applicant. The Declaration of Mary Ann DeCarolis is submitted herewith in support of the motion. Concurrently, with the filing of this motion, Opposer also has moved to extend Opposer's discovery period to provide an opportunity to review Applicant's responses to its initial discovery requests and

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take any necessary follow up discovery.

The grounds for Opposer's motion to compel discovery are set forth below.

On May 8, 2001, Opposer served Opposer's First Set of Interrogatories on Attorney for Applicant. A copy of Opposer's Discovery Requests are attached as Exhibit A.

Opposer and Attorney for Applicant agreed to extend discovery and testimony periods. On May 30, 2001, Opposer filed a Motion with Consent to Extend Discovery and Testimony Periods with the Board. A copy of the Motion with Consent is attached as Exhibit B.

On June 4, 2001, Applicant's Attorney filed a Request to Withdraw as Counsel for Applicant with the Trademark Trial and Appeal Board.

Applicant's Attorney did not serve an Answer to Opposer's Interrogatories on Opposer.

On June 18, 2001, the Board granted Applicant's Attorney's Request to withdraw as Applicant's Counsel. The Board suspended proceedings and allowed Applicant thirty (30) days to appoint new counsel or to file a paper stating Applicant chooses to represent herself.

On July 18, 2001, Applicant filed a Response with the Board, advising that she would represent herself.

On July 26, 2001, the Board acknowledged Applicant's statement that she would represent

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herself and declared that proceedings were now resumed. The Board also reset the discovery and trial dates in this opposition proceeding.

On August 6, 2001, Opposer served a courtesy copy of Opposer's First Set of Interrogatories on Applicant. Applicant's former Attorney had not served an Answer to Opposer's Interrogatories. A copy of the correspondence and the Interrogatories are attached as Exhibit C.

On November 6, 2001, Opposer sent a letter to Applicant advising that no Answer to Opposer's First Set of Interrogatories had been served upon Opposer. Opposer further advised that if Applicant failed to respond to Opposer's First Set of Interrogatories within ten (10) days, Opposer would file a Motion to Compel a Response to Opposer's Discovery Requests with the Board. A copy of this letter is attached as Exhibit D.

Applicant did not serve an Answer to Opposer's First Set of Interrogatories nor did Applicant respond to Opposer's letter of November 6, 2001.

On January 3, 2002, Opposer sent Applicant a second letter advising that no Answer to Opposer's First Set of Interrogatories had been served. Opposer further advised that if Applicant failed to answer Opposer's First Set of Interrogatories within ten (10) days, Opposer would file a Motion to Compel a Response to Discovery. A copy of this letter is attached as Exhibit E.

Applicant did not serve Answers to Opposer's First Set of Interrogatories nor did she respond to Opposer's letter of January 3, 2002.

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Applicant neither responded to the discovery requests nor requested an extension. Despite Opposer's repeated requests, Applicant has continued to fail to respond to the discovery and has simply ignored Opposer's efforts to resolve the matter without Board intervention. As set forth in the Declaration of Mary Ann DeCarolis submitted herewith, there has been no response to Opposer's counsel's service of the courtesy copy of Opposer's First Set of Interrogatories, its November 6, 2001 letter or its January 3, 2002 letter.

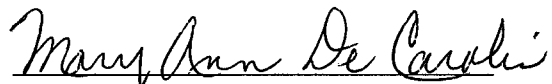
Opposer accordingly requests an Order compelling Applicant to answer Opposer's First Set of Interrogatories to Applicant, all without objection. Envirotech Corporation v. Compagnie Des Lampes, 219 USPQ 448 (TTAB 1979); Crane Co. v. Shimano Industrial Co., Ltd., 184 USPQ 691 (TTAB 1975).

Respectfully submitted,

EUROPEENE DE PRODUITS DE BEAUTE

Date: February 25, 2002

By:



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February 25, 2002

EXPRESS MAIL

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Trademark Trial and Appeal Board
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02-25-2002
U.S. Patent & TMO/TM Mail Rpt Dt. #66

Re: Opposition Europeenne De Produits De Beaute v. Anna Kosova
Opposition No. 119,940
Petitioner's Motion To Compel Discovery Responses and
Petitioner's Motion To Extend Opposer's Discovery Period
Our Reference: EURO-03526-USA-OP

Dear Sir:

A Motion to Compel Discovery Responses, Declaration of Mary Ann DeCarolis in Support of Motion to Compel and a Motion to Extend Opposer's Discovery Period, together with Certificates of Mailing under 37 C.F.R. 1.10, Certificates of Service upon Applicant and a return postcard are enclosed.

Please forward the Motions and the Declaration to the Trademark Trial and Appeal Board.

Very truly yours,

Mary Ann De Carolis
Mary Ann DeCarolis
Consulting Trademark Attorney

Enclosures

cc: Ms. Anna Kosova